IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

FRIDAY, THE 26TH OCTOBER 2007 / 4TH KARTHIKA 1929

CRP.No. 488 of 2002(A)

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O.P.(E) No.31/1996 OF DISTRICT COURT, WAYANAD, KALPETTA.

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REVN. PETITIONER: PETITIONER

MOONAKKIL SANKARAN NAIR, AGED 83,
S/O. GOVINDAN NAIR, MOONAKKIL HOUSE,
KAKKAVAYAL, MUTTIL SOUTH VILLAGE,
VYTHIRI TALUK, WAYANAD DISTRICT.

BY ADV. SRI.P.K.ABOOBACKER(EDAPPALLY)

RESPONDENT: RESPONDENT

THE KERALA STATE ELECTRICITY BOARD
REPRESENTED BY THE CHAIRMAN,
THIRUVANANTHAPURAM.

BY ADV. SRI. ASOK M.CHERIYAN, SC, KSEB

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 26/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

HARUN-UL-RASHID, J.

C.R.P. 488 of 2002-A

Dated: October 26, 2007

ORDER

The claimant in O.P.(E) No.31/1996 on the file of the District Court, Wayanad, is the revision petitioner herein. In connection with the drawing of 66 KV Kainatty-Sulthan Bathery electric line through the property of the petitioner, certain trees including fruit bearing trees were cut and removed from the property of the petitioner. According to the petitioner, the compensation given for the value of the fruit bearing trees, the diminution in land value, the fixation of market value etc. are unsustainable for the reasons and grounds set out in the revision petition and urged at the time of hearing. According to the petitioner, the commissioner in Ext.C1 report had prepared the valuation and assessed the value of the fruit bearing trees There is no justification for not relying on the commissioner's report, contended counsel for the petitioner. After rejecting the commissioner's report, the court below failed to re-fix the compensation for the trees cut and removed and accepted the compensation paid already by the officials. According to the petitioner, due to the drawing of the line and removal of trees from his property, the extent of land affected is 50 cents, but the court below assessed the affected area as 10 tents. The commissioner also reported after site inspection that the affected area due to the drawing of the line is 50 cents of land. The court below is not justified in fixing the affected extent of land as 10 cents without any basis or datas.

2. The petitioner is also aggrieved by the fixation of market value of the land at Rs.1500/- per cent, which, according to him, is a paltry amount and the court below is not justified in fixing such an amount for the property for which the minimum valuation, according to the petitioner, is Rs.5000/- per cent. The commissioner also reported that the property will fetch a market value of Rs.5000/- per cent.

3. On examination of the materials on record and the finding arrived at by the court below, I am of the view that the various assessments made by the court below is not justified on the basis of evidence adduced by the claimant/petitioner. In the circumstances a re-assessment of the issues involved is necessary in the interests of justice. Therefore, I allow this revision petition, set aside the order under revision and direct the court below to decide afresh the issues on the basis of the materials on record and further evidence, if any, to be adduced by both sides.

HARUN-UL-RASHID
JUDGE

mt/-

HARUN-UL-RASHID, J.

C.R.P. 488 OF 2002-A

ORDER

26.10.2007